

23 December 1997

Re: NEPA Technical Inquiry 0110 - Seismic Standards Compliance

Dear NEPA Call-In User:

This letter is in response to your June 20, 1997 request for information and GSA guidance on the leasing of historic property that is not in compliance with seismic standards. You stated a lessor in Montana claims his historic property is entitled to GSA's first consideration for new space acquisition under Executive Order (EO) 13006, "Locating Federal Facilities on Historic Properties in Our Nation's Central Cities," May 21, 1996. You also stated you think GSA may not have to give first consideration to the historic property in question because it is not in compliance with seismic safety standards. You provided NEPA Call-In with relevant pages from a handbook titled "Facilities Standards for the Public Buildings Service," and a November 18, 1996 draft memorandum, "Historic Preference in Lease Acquisition" for review. You stated you could not determine if GSA seismic safety standards apply to historic properties. You would like to know if seismic standards should be modified or reduced to allow for consideration of historic buildings.

SUMMARY OF FINDINGS

NEPA Call-In determined that seismic standards apply to all Federally owned or leased buildings, whether historic or not. The National Institute of Standards & Technology (NIST) document, "Seismic Safety of Existing Federal Buildings," explains that historic buildings are to be held to the same standard as other buildings. Further, seismic standards should not be modified or reduced to allow for consideration of historic buildings. NEPA Call-In also reviewed the documents you sent to us, but were unable to make a determination from them. We were also unable to locate additional GSA guidance on this matter.

DETAILED FINDINGS

NEPA Call-In first reviewed EO 13006, "Locating Federal Facilities on Historic Properties in Our Nation's Central Cities," May 21, 1996. This order mandates that Federal agencies shall give first consideration to historic properties for new space acquisition. Section 3 of the order, "Identifying and Removing Regulatory Barriers," states:

"Federal agencies with responsibilities for leasing, acquiring, locating, maintaining, or managing Federal facilities or with responsibilities for the planning for, or managing of, historic resources shall take steps to reform, streamline, and otherwise minimize regulations, policies, and procedures that impede the Federal Government's ability to establish or maintain a presence in historic districts or to acquire historic properties to satisfy Federal space needs, unless such regulations, policies, and procedures are designed to protect human health and safety or the environment. Federal agencies are encouraged to seek the assistance of the Advisory Council on Historic Preservation when taking these steps."

Since seismic standards are designed to protect human health and safety, EO 13006 clearly states that such standards should not be minimized to allow for special consideration of historic properties.

We then reviewed EO 12941, "Seismic Safety of Federally Owned or Leased Buildings," December 1, 1994. EO 12941 mandates a modest program of seismic evaluation and rehabilitation in all Federal agencies. Section One of the order calls for the adoption of minimum seismic standards for all Federal buildings. These standards, "Standards of Seismic Safety for Existing Federally Owned or Leased Buildings," were written by the Interagency Committee on Seismic Safety in Construction (ICSSC), headed by the NIST, U.S. Department of Commerce. NEPA Call-In ordered these standards from the National Technical Information Service, (703) 487-4650, and will forward them to you upon receipt.

NEPA Call-In reviewed the NIST document "Seismic Safety of Existing Federal Buildings" (enclosed), which summarizes the seismic standards written by the ICSSC. This document states:

"The standards specify life safety as the minimum level of seismic performance to be achieved in 'triggered' buildings. Historic buildings are to be held to the same standard. The Secretary of the Department of the Interior's Standards on Historic Preservation are to be followed in achieving adequate seismic safety."

The Secretary of the Interior's Standards are guidelines to help implement historic projects. The document is available on NEPA Call-In's World Wide Web (WWW) site at <http://www.gsa.gov/pbs/pt/call-in/nepa.htm>. In a follow up call to you, you stated you did not require a copy of this document as you prefer to download it from the WWW site.

We then contacted a Realty Specialist, GSA Central Office, for GSA guidance on this issue. The Realty Specialist stated that seismic standards should apply to historic buildings as well as non-historic. The Realty Specialist also stated that GSA Region 8 Regional Counsel's Office is familiar with this issue and should be consulted.

NEPA Call-In contacted GSA Region 8 Regional Counsel. The Regional Counsel stated that he also believed seismic standards apply to historic properties and that GSA should not have to lease buildings which are not in compliance with standards written to protect human health and safety. The Regional Counsel stated Region 8 Regional Counsel has handled a case similar to this one before.

Finally, we contacted Historic Preservation Specialist, GSA Central Office. The Specialist stated historic buildings are not exempt from seismic safety standards. He also stated the decision not to give first consideration to an historic building due to seismic safety concerns depends on the degree to which the building is seismically unsafe and the seismic zone the building is in. The Specialist stated that all GSA buildings in seismic zones 3 and 4 are currently being evaluated and retrofitted for compliance with seismic safety standards.

The materials in this TI have been prepared for use by GSA employees and contractors and are made available at this site only to permit the general public to learn more about NEPA. The information is not intended to constitute legal advice or substitute for obtaining legal advice from an attorney licensed in your state and may or may not reflect the most current legal developments. Readers should also be aware that this response is based upon laws, regulations, and policies in place at the time it was prepared and that this response will not be updated to reflect changes to those laws, regulations and policies.

Sincerely,

(Original Signed)

NEPA Call-In Researcher